IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.97 of 2006

Mr.Sahir Hamid and another. ...Petitioners

vs.

The Bombay Mercantile Co-operative Bank Ltd. and another. ...Respondents.

Mr.Milind Vasudeo i/b. M/s.Khaitan & Jayakar, for the Petitioners.

Mr.T.N.Tripathi, for Respondent no.1.

CORAM: D.K.DESHMUKH,J.

DATED: 10th April, 2006.

P.C.:-

1. By this petition, the Award made by the sole Arbitrator under the provisions of the Multi State co-operative Societies Act 2002, has been challenged. The first challenge is that the liability was incurred under the provisions of the Multi State Co-operative Act,1984 which Act has been repealed by the

2002's Act and therefore, the recovery proceedings could not have been initiated under the 2002's Act. Perusal of the repealing provision in the 2002's Act i.e. Section 126 of the Act read with Section 6 of the General Clauses Act shows that if a liability is incurred under the provisions of 1984's Act, the liability can be enforced by the Bank against a member under the 2002's Act. Hence, no fault can be found with the findings recorded by the learned Arbitrator in the Award.

2. The next submission is that the dispute has not been filed within the period of limitation. Perusal of Section 85 of the Act shows that as the petitioner is a member of the Multi State Co-operative Bank, the Bank can file a petition for recovery from its member at any time during the life time of a member. Both the contentions raised have no substance. The petition is therefore, rejected.

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